

AMENDED IN ASSEMBLY MAY 31, 2005

AMENDED IN ASSEMBLY APRIL 7, 2005

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

ASSEMBLY BILL

No. 1407

Introduced by Assembly Member Oropeza

February 22, 2005

An act to add Division 29 (commencing with Section 38000) to the Public Resources Code, relating to the environment.

LEGISLATIVE COUNSEL'S DIGEST

AB 1407, as amended, Oropeza. ~~California Environmental Health and Air Quality Funding Act of 2005: Off-road diesel fuel.~~

Under the Diesel Fuel Tax Law, a tax is imposed on the removal of diesel fuel from various storages, as specified.

~~This bill would enact the California Off-Road Environmental Health and Air Quality Funding Act of 2005. The act would require a supplier of dyed diesel fuel to pay an air quality fee of 5¢ per gallon for the removal or sale of dyed diesel fuel or blended dyed diesel fuel, as specified. The act would require a train operator to pay a fee of 5¢ per gallon for diesel fuel used in this state. The act would also require an ultimate vendor to pay an air quality fee of 5¢ per gallon on each gallon of undyed diesel fuel sold by the ultimate vendor to a farmer in a specified transaction. The act would require a user of undyed diesel fuel to pay an air quality fee of 5¢ per gallon on each gallon of undyed diesel fuel for which the user claims a refund of the diesel fuel tax, as specified. The bill would require the State Board of Equalization to administer the fees imposed.~~

~~The bill would establish the California Off-Road Environmental Health and Air Quality Fund in the State Treasury. The bill would~~

~~require the fees imposed on dyed diesel fuel and undyed diesel fuel pursuant to the bill's provisions to be deposited in the fund. Moneys in the fund may be expended, upon appropriation by the Legislature, for refunds and for the administrative costs of the State Board of Equalization, with the balance to be transferred to Air Pollution Control Fund for expenditure for projects providing for the retrofitting or repowering of off-road diesel engines, as specified.~~

~~The bill would provide that provisions of the act become operative on July 1, 2006.~~

This bill would require, on or before March 1, 2006, the State Air Resources Board to report to the Legislature on the efficacy of imposing a fee of 5¢ per gallon of off-road diesel fuel as a means of generating revenue to fund projects that mitigate the past, present, and future harm to public health resulting from off-road diesel fuel in the state. The bill would also make findings and declarations relating to air quality and diesel exhaust.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. The Legislature finds and declares all of the
- 2 following:
- 3 (a) Diesel exhaust is a mixture of smog-forming pollutants,
- 4 particulate matter (PM), nitrogen oxides (NOx), and other toxic
- 5 contaminants, such as arsenic, cadmium, dioxin, and mercury.
- 6 (b) Diesel exhaust particles can cause or exacerbate a wide
- 7 variety of health problems, including asthma and other
- 8 respiratory ailments, and has been linked to cancer and premature
- 9 death.
- 10 (c) Studies indicate that California is the nation's largest
- 11 source of pollution from PM and NOx emissions from
- 12 off-highway diesel use, with Los Angeles ranking as the number
- 13 one metropolitan area with the worst off-road diesel air pollution
- 14 in the country.
- 15 (d) Off-road diesel engine equipment located in California
- 16 ports, construction sites, agricultural areas, and railyards are
- 17 amongst the least regulated sources of diesel pollution.
- 18 (e) Many low-income residents and communities of color live
- 19 in urban and rural areas directly adjacent to port, rail,

1 agricultural, and construction activities and bear disproportionate
2 levels of concentrated diesel-based air pollution.

3 (f) Air quality in the South Coast Air Basin, the San Joaquin
4 Valley, and the Sacramento Valley violate the federal one-hour
5 ozone standard for PM 10. Failure to meet these federal
6 requirements can jeopardize California's share of transportation
7 dollars.

8 (g) The Carl Moyer Memorial Air Standards Attainment
9 Program funds the incremental cost of cleaner than required
10 engines and equipment in order to significantly reduce NOx and
11 PM from off-road diesel equipment. The reductions provided by
12 this program are critical and necessary for California to meet its
13 federal clean air commitments.

14 (h) To clean up current diesel fuel-related pollution and to
15 protect against further contamination, it is necessary to maintain
16 and direct stable funding to programs that reduce air pollution
17 from off-road diesel sources.

18 (i) Under the Diesel Fuel Tax Law, off-road diesel fuel is
19 exempt from the existing eighteen cents (\$0.18) state excise tax
20 on diesel fuel.

21 (j) A fee of five cents (\$0.05) per gallon of off-road diesel fuel
22 ~~imposed by this act~~ *should be studied by the State Air Resources*
23 *Board pursuant to this act to determine whether a levy of that*
24 *amount is proportionate to the harm resulting from off-road*
25 *diesel pollution within the state and is a fair and reasonable*
26 *means to mitigate the past, present, and future harm to public*
27 *health resulting from off-road diesel fuel in the state.*

28 *SEC. 2. On or before March 1, 2006, the State Air Resources*
29 *Board shall report to the Legislature on the efficacy of imposing*
30 *a fee of five cents (\$0.05) per gallon of off-road diesel fuel as a*
31 *means of generating revenue to fund projects that mitigate the*
32 *past, present, and future harm to public health resulting from*
33 *off-road diesel fuel in the state.*

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**All matter omitted in this version of the bill
appears in the bill as amended in Assembly,
April 7, 2005. (JR11)**

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